United Nations CRC/C/OPSC/URY/CO/1

Convention on the Rights of the Child

Distr.: General
6 March 2015

Original: English

Committee on the Rights of the Child

Concluding observations on the initial report submitted by Uruguay under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

1. The Committee considered the initial report of Uruguay (CRC/C/OPSC/URY/1) at its 1956th meeting (see CRC/C/SR.1956) held on 20 January 2015, and at the 1983rd meeting, held on 30 January 2015, adopted the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPSC/URY/Q/1/Add.1). The Committee also appreciates the constructive dialogue held with the multisectoral delegation of the State party.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations on the State party's combined third to fifth periodic report under the Convention on the Rights of the Child (CRC/C/URY/CO/3-5) and on the initial report under the Optional Protocol to the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/URY/CO/1) adopted on 30 January 2015.

II. General observations

Positive aspects

4. The Committee notes with appreciation the State party's ratification of the following:

(a) Protocol against Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in 2005;

* Adopted by the Committee at its sixty-eighth session (12–30 January 2015).

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(b) Protocol to Prevent, Supress and Punish Trafficking Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2005.

5. The Committee welcomes the legislative measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of the following:

(a) Migration Act, adopted on 27 December 2007;

(b) Commercial and Non-commercial Sexual Violence against Children, Adolescents and Persons with Disabilities Act, adopted on 8 August 2004.

6. The Committee further welcomes the progress achieved in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:

(a) National Plan of Action for the Prevention and Elimination of Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents, adopted in 2007;

(b) National Committee for the Elimination of Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents (CONAPEES), in 2004.

III. Data

Data collection

7. The Committee is concerned about the lack of a comprehensive data collection system covering all offences under the Optional Protocol. It is also concerned about the lack of precise statistics on the number of cases of child victims of sale, child prostitution and child pornography, and the number of perpetrators prosecuted and the sanctions pronounced against.

8. **In line with its concluding observation under the Convention on the Rights of the Child (CRC/C/URY/CO/3-5, para. 17), the Committee recommends that the State party develop and implement a comprehensive system of data collection, analysis and impact assessment of all the areas covered by the Optional Protocol. The data should be disaggregated, including by sex, age, national and ethnic origin, geographical location, and socioeconomic status, with particular attention to children in vulnerable situations. Data should also be collected on the number of prosecutions and convictions, and disaggregated by the nature of the offence.**

IV. General measures of implementation

National plan of action

9. The Committee welcomes the adoption in 2007 of the National Plan of Action for the Prevention and Elimination of Commercial and Non-commercial Sexual Exploitation of Children and Adolescents. However, the Committee regrets that a comprehensive national plan of action, which includes all issues covered by the Optional Protocol has not yet been adopted.

10. **The Committee recommends that the State party ensure that the new plan of action (2015-2020) addresses all issues covered under the Optional Protocol, and that adequate human, financial and technical resources are allocated for its effective implementation. In doing so, the State party should pay special attention to the implementation of all provisions of the Optional Protocol, taking into account the**

Declaration and Agenda for Action and the Global Commitment adopted at the first, second and third World Congress against Commercial Sexual Exploitation of Children.

Coordination and evaluation

11. While noting the establishment of the National Committee for the Eradication of Sexual Exploitation of Children, the Committee is concerned about the lack of information on how this Committee ensures effective coordination in the implementation of the Optional Protocol and whether it is involved in the activities of the Consultative Honorary Council.

12. **In line with its concluding observations under the Convention (CRC/C/URY/CO/3-5, para. 13), the Committee urges the State party to adopt the measures necessary for ensuring effective coordination between the National Committee for the Elimination of Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents and the Consultative Honorary Council for the effective implementation of the Optional Protocol at the cross-sectoral, national, state and local levels.**

Dissemination and awareness-raising

13. The Committee takes notes of some initiatives undertaken by the State party to disseminate and raise awareness on sexual exploitation and trafficking in persons. However, the Committee is concerned about the lack of comprehensive dissemination of the provisions of the Optional Protocol to the general public, including children.

14. **The Committee recommends that the State party:**

(a) Make all the provisions of the Optional Protocol widely known to the public, particularly to children and their families, including through developing and implementing specific, comprehensive and long-term awareness-raising programmes, at national, regional and local levels, and including the provisions of the Optional Protocol into school curricula at all levels of the educational system, using appropriate materials created specifically for children;

(b) Establish effective guidelines and partnership with the media with the view to raising awareness on the Optional Protocol;

(c) Adopt effective dissemination and awareness-raising programmes, in order to prevent and combat crimes under the Optional Protocol, focusing on children who are particularly at risk of becoming victims and their parents, and encouraging the participation of the community, in particular of children, including child victims.

Training

15. The Committee is concerned that training for professionals working with and for children does not include all the areas covered by the Optional Protocol and is not conducted on a systematic basis.

16. **In line with its concluding observations under the Convention (CRC/C/URY/CO/3-5, para. 23), the Committee recommends that the State party develop a strategy to ensure that all relevant actors working on children's rights relating to the Optional Protocol receive adequate training; in particular, police officers, judges, prosecutors, immigration and labour inspectors, social workers and health-care staff. The strategy should be provided with human, financial and technical resources that are adequate for its implementation, and should include the designation**

of a mechanism capable of monitoring, evaluating and improving the quality of the training initiatives on a regular basis.

Allocation of resources

17. The Committee is concerned that the State party did not provide sufficient information on the allocation of resources for the implementation of the provisions of the Optional Protocol.

18. **The Committee urges the State party to ensure that sufficient resources are allocated for the implementation of the Optional Protocol in all areas, by providing, in particular, the necessary human, financial and technical resources for the development and implementation of programmes aimed at the protection, physical and psychological recovery and social reintegration of child victims, as well as the investigation and prosecution of the offences covered by the Optional Protocol.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)

Measures adopted to prevent offences prohibited under the Protocol

19. The Committee notes that preventative measures adopted by the State party are mainly related to awareness-raising activities. However, the Committee is concerned about the lack of a comprehensive strategy for the prevention of the sale of children, child prostitution and child pornography that addresses the underlying root causes of the offences under the Optional Protocol, such as poverty, cultural stereotypes and social acceptance of children's sexual exploitation.

20. **The Committee recommends that the State party:**

(a) Take the measures necessary to pay particular attention to the protection of children who are at risk of becoming victims to the offences under the Optional Protocol, as required by article 9, paragraph 1;

(b) Further develop assistance programmes that specifically target children in vulnerable situations;

(c) Undertake research on the nature and extent of the sale of children, child prostitution and child pornography to identify the root causes and the extent of the problem in order to develop and adopt effective and targeted measures for the prevention of offences prohibited under the Optional Protocol.

Child prostitution and child pornography

21. The Committee is deeply concerned about the prevalence of child prostitution and the high number of downloads of child pornography in the State party. The Committee is seriously concerned about the persistence of sociocultural stereotypes that generate social tolerance of the sexual exploitation of children, child prostitution and child pornography.

22. **The Committee urges the State party to urgently:**

(a) Ensure effective enforcement of its legislation prohibiting child prostitution and child pornography;

(b) Take effective measures to prevent the publication and dissemination of pornographic material concerning children, including through the establishment of surveillance mechanisms for Internet safety;

(c) Develop education programmes on preventive measures and the harmful effects of child prostitution and child pornography, in close cooperation with the community, including children;

(d) Take appropriate measures to change the cultural patterns that lead to tolerance of the sexual exploitation of children and the involvement of children in prostitution and in pornography.

Child sex tourism

23. While noting that the State party has undertaken measures to raise awareness on sex tourism, the Committee is concerned that child sex tourism has not explicitly been incorporated as a criminal offence into the criminal legislation. The Committee is also concerned that the measures adopted by the State party do not effectively prevent the intermediaries from offering sexual tourism services involving children and adolescents.

24. **The Committee recommends that the State party:**

(a) Establish and implement an effective regulatory framework to prevent and eliminate child sex tourism and, in particular, criminalize child sex tourism and ensure that the offence incorporate sanctions commensurate with the gravity of the crime;

(b) Adopt adequate preventative measures to combat sex tourism, including by raising awareness to change attitudes, such as the idea that it is acceptable to abuse and exploit children;

(c) Conduct advocacy with the tourism industry on the harmful effects of child sex tourism, widely disseminate the United Nations World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies, and encourage these enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4, paras. 2 and 3; and 5–7)

Existing criminal or penal laws and regulations

25. While noting that the Commercial and Non-commercial Sexual Violence against Children, Adolescents and Persons with Disabilities Act of 2004 and the Migration Act of 2007 prohibit child prostitution and child pornography, the Committee is concerned that the criminal legislation does not contain all the definitions of criminal offences as provided in article 2 of the Optional Protocol. The Committee also notes with concern that the sale of children is not clearly defined in the State party's legislation and the transfer of organ of the child for profit and the engagement of the child in forced labour have not been criminalized as cases of the sale of children. The Committee also notes with concern that all activities related to child pornography have not been included in the criminal legislation, as specified in article 3 paragraph 1 (c) of the Optional Protocol.

26. **The Committee recommends that the State party revise and bring its criminal legislation into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should ensure that all of the following offences are explicitly criminalized:**

(a) The sale of children by offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation, transfer of organs of the child for profit, engagement of the child in forced labour or improperly inducing consent, as an intermediary, for the adoption of a child in violation of the applicable legal instrument on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography;

(d) An attempt to commit any of these acts and complicity or participation in any of these acts;

(e) The production and dissemination of material advertising any of these acts.

27. The Committee is particularly concerned about the restrictive interpretation by judges of the offences related to the Optional Protocol that have been incorporated into the State party's criminal legislation, which in some cases are in contradiction with the Optional Protocol.

28. **In line with its concluding observations under the Convention (CRC/C/URY/CO/3-5, para. 23), the Committee urges the State party to undertake systematic and comprehensive training programmes on the content of the Optional Protocol among judges, lawyers, prosecutors and all professionals working in the administration of justice.**

Impunity

29. The Committee is concerned about the lack of information on investigations and prosecutions of offences under the Optional Protocol and about the general impunity prevailing in the State party. The Committee is also concerned that cultural attitudes, as well as the large discretionary powers among law enforcement officials, may be one of the major obstacles preventing effective investigations and prosecution.

30. **The Committee urges the State party to:**

(a) Ensure that crimes under the Optional Protocol are duly investigated and that the alleged perpetrators are prosecuted and duly sanctioned if found guilty;

(b) Provide specialized training for law enforcement authorities and the judiciary to detect, investigate and prosecute offences under the Optional Protocol;

(c) Immediately address the issue of impunity as a matter of priority, by carrying out rigorous investigations of complaints;

(d) Provide specific information on investigations, prosecutions and punishments of perpetrators of offences under the Optional Protocol in its next periodic report.

Liability of legal persons

31. The Committee is concerned that legal persons, including corporations, are not criminally liable under the State party's legislation for offences covered by the Optional Protocol.

32. **The Committee recommends that the State party revise its legislation to ensure criminal liability of legal persons for offences related to the Optional Protocol in conformity with article 3, paragraph 4, of the Optional Protocol.**

Extraterritorial jurisdiction

33. The Committee is concerned that the State party's jurisdiction can only be exercised over offences under the Optional Protocol committed within its territory.

34. **The Committee recommends that the State party take steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction, especially with regard to the offences under the Optional Protocol committed abroad by or against its nationals or by foreigners residents in the State party without the criterion of double criminality, as well as to use, where necessary, the Optional Protocol as a legal basis for extradition, in conformity with article 5 of the Optional Protocol.**

VII. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4)

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

35. The Committee is concerned at the absence of legislation concerning protection and assistance for child victims and witnesses in criminal proceedings before, during and after a trial. The Committee also regrets the lack of judicial procedures to avoid re-victimization of child victims and the lack of compensation mechanisms for child victims.

36. **The Committee recommends that the State party:**

(a) Adopt specific legislation for the protection and assistance of child victims and child witnesses of criminal offences under the Optional Protocol, throughout the criminal proceedings;

(b) Ensure that child victims or witnesses of offences under the Optional Protocol are not re-victimized and that evidence, such as video recordings of testimonies, are always accepted in judicial procedures;

(c) Guarantee that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol, and establish a victims compensation fund for those cases where victims cannot obtain compensation from the perpetrator.

Recovery and reintegration of victims

37. The Committee is concerned about the absence of adequate assistance programmes for the physical and psychosocial recovery and social reintegration of child victims under the Optional Protocol, as well as the poor infrastructure, insufficient human resources and coverage limitations for such programmes.

38. **The Committee urges the State party to take the necessary measures to ensure that child victims of offences under the Optional Protocol are provided with appropriate assistance, including for their full social reintegration and physical and psychological recovery, including by implementing rehabilitation programmes effectively. The Committee also urges the State party to ensure the allocation of**

sufficient human, technical and financial resources for the recovery and reintegration of child victims.

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

39. **In the light of article 10, paragraph 1, of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regiona' and bilateral arrangements, especially with neighbouring countries and the Union of South American Nations (UNASUR), including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, and detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.**

IX. Follow-up and dissemination

Follow-up

40. **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, including by transmitting them to the relevant government ministries, the General Assembly, the Judiciary and to national and local authorities, for appropriate consideration and further action.**

Dissemination of concluding observations

41. **The Committee recommends that the initial report and written replies submitted by the State party and related concluding observations adopted by the Committee be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol and its implementation and monitoring.**

X. Next report

42. **In accordance with article 12, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.**